

EXPLANATORY MEMORANDUM ON THE PROTOCOL TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, ON THE ONE HAND, AND THE GOVERNMENT OF THE KINGDOM OF DENMARK TOGETHER WITH THE HOME GOVERNMENT OF THE FAROE ISLANDS, ON THE OTHER HAND, RELATING TO THE MARITIME DELIMITATION IN THE AREA BETWEEN THE FAROE ISLANDS AND THE UNITED KINGDOM, DONE AT TORSHAVN ON 18 MAY 1999, ("THE AGREEMENT")

Title of the Treaty

Protocol to the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland, on the one hand, and the Government of the Kingdom of Denmark together with the Home Government of the Faroe Islands, on the other hand, relating to the Maritime Delimitation in the area between the Faroe Islands and the United Kingdom, Done at Torshavn on 18 May 1999, ("The Agreement")

Command Paper Number: 8570

Subject Matter

The Protocol provides for the coordinates of the delimited continental shelf boundary between the UK and the Faroes, as defined in the 1999 Agreement, to also define the boundary of the Exclusive Economic Zone.

The Protocol also reiterates the status of the Special Area, as defined in the 1999 Agreement, which is an area of overlapping jurisdiction for the purposes of fishing. Article 1 of the Protocol sets out the rights and responsibilities of the two sides in relation to the environment and marine scientific research in the Special Area, and Article 3 the rights and responsibilities in relation to renewable energy.

Finally, the Protocol expresses the coordinates for the boundary and the Special Area is the latest datum.

Ministerial responsibility

The Rt Hon Baroness Warsi PC, Senior Minister of State, has responsibility for maritime issues within the Foreign and Commonwealth Office. Other Ministers with an interest include The Rt Hon Michael Moore MP, Secretary of State for Scotland, John Hayes, Minister of State for Energy, Department for Energy and Climate Change, and Richard Benyon MP, Parliamentary Under-Secretary for Natural Environment, Water and Rural Affairs.

Policy considerations

General

Under the UN Convention on the Law of the Sea there are essentially two kinds of maritime zones which can be declared beyond the territorial sea, namely the Continental Shelf and the Exclusive Economic Zone (EEZ). The former is concerned with the sea bed and the subsoil and the latter, the water column. The UK has not so far declared an EEZ although we have made use of the EEZ powers available to a coastal state under the UN Convention to regulate a number of the relevant issues.

However, this has led to a plethora of different named zones dealing, for example, with fisheries, marine pollution and wind farms. It was concluded that it would be better to declare an EEZ which would encompass all of the existing zones. Power to declare one was taken in the Marine and Coastal Access Act 2009, but before this can happen, we need to conclude bilateral agreements with all our maritime neighbours on an EEZ boundary.

Financial

There are no financial implications arising from this Protocol.

Reservations and Declarations

Not applicable.

Implementation

The Protocol will enter into force on the date of the latter of the notifications by the two Governments confirming that the conditions for entry into force of the Protocol have been fulfilled. The Government's current intention is to bring the Protocol into force when the EEZ around the UK is declared, which would be the same time as the entry into force of the power in the Marine and Coastal Access Act 2009, mentioned above.

Consultations

The Scottish Government has devolved competence on fisheries management and for some aspects of renewable energy eg development consents within Scotland's Renewable Energy Zone, which has a slight overlap with the Special Area as defined in the Agreement. Scottish Government officials from Marine Scotland, covering fisheries policy and marine renewables, were consulted and also participated in the negotiations on the Protocol. The Scottish Government and the Faroese were keen to maintain the fishing opportunities provided for in the Special Area established under the 1999 Agreement.

